



"To enrich lives through effective and caring service"



Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

October 18, 2011

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

23 October 18, 2011

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

**DEPARTMENT OF BEACHES AND HARBORS:
APPROVAL OF RENEWAL OF OPTION TO AMEND LEASE AGREEMENT TO FACILITATE
REDEVELOPMENT –
PARCEL 8T (BAY CLUB APARTMENTS AND MARINA) – MARINA DEL REY
(FOURTH DISTRICT)
(4 VOTES)**

SUBJECT

Request for approval of Renewal of Option to Amend Lease Agreement for Parcel 8T extending for 18 months the period for NF Marina, LP's completion of various actions, including obtaining financing, required prior to exercising its option regarding its proposed renovation of the apartment buildings and docks.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that your Board has previously considered and adopted the Mitigated Negative Declaration for the Marina Bay Club Apartments and Marina lease extension and renovation project (Parcel 8T).
2. Authorize the Mayor to execute the attached Renewal of Option to Amend Lease Agreement, granting: a) an extension of the Option for 18 months to December 8, 2012, upon payment by NF Marina, LP of an additional non-refundable \$100,000 extension fee; and b) County the right to participate in the proceeds from any sale or transfer of the property prior to Lessee's exercising the Option.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On December 8, 2009, your Board granted NF Marina, LP ("Lessee") an option ("Option") to extend the Parcel 8T lease by 30 years from its current June 7, 2021 expiration date to June 7, 2051. The Option Agreement included an approved form of Amended and Restated Lease Agreement for the leasehold, to be executed after satisfaction of various requirements, including evidence that the Lessee had sufficient project financing. Lessee paid a non-refundable option fee of \$100,000 upon grant of the Option and has agreed to spend no less than \$20.0 million for renovation of all existing apartment buildings to include apartment unit interiors, building facades, club house, interior and exterior common areas, as well as replacement of landscaping, hardscape, and the existing marina, and upgrading of the waterfront promenade to current Marina standards. Among the other negotiated points, Lessee agreed to an increase of the County's percentage rent rate for apartment units to 14.5 percent, subject to certain offsets during the first 20 years of the term.

The Option expired on June 8, 2011. During the Option period, Lessee diligently pursued its entitlements and was able to obtain them, including approvals from the Department of Regional Planning and the Coastal Commission, but was not able to complete other required actions prior to the expiration of the Option. The major reason for Lessee's inability to complete all the required actions is that Lessee has not been able to secure financing. Lessee has requested that it be given until December, 2012 to either acquire its financing and complete all the other required actions (e.g., final approval of plans) for exercise of the option or find a buyer for the leasehold capable of financing the project.

In consideration for renewing the Option and extending the expiration date, Lessee has agreed to the following: (1) payment of an additional \$100,000 Option Extension Fee upon signing of the Renewal of Option to Amend Lease Agreement ("Renewal of Option"), which provides for the renewal of the Option and an extension of 18 months to December 8, 2012; and b) amending the Option whereby the County will participate in proceeds from any sale or transfer of the property prior to Lessee's exercising the Option.

Our economic consultant has reviewed the consideration being paid for the Renewal of Option and has found that the County is receiving fair value for the amount of time that it is granting to extend the date to implement the transaction as previously negotiated.

Implementation of Strategic Plan Goals

The County Strategic Plan directs that we maximize the effectiveness of the County's processes, structure, and operations to support timely delivery of customer-oriented and efficient public services. The recommended action will allow the Lessee to continue its effort towards the proactive redevelopment of the parcel, which will help the County achieve fiscal sustainability (Strategic Plan Goal No. 1, Strategy No.1).

FISCAL IMPACT/FINANCING

Operating Budget Impact

Upon your Board's approval and the Mayor's execution of the Renewal of Option, the Department of Beaches and Harbors' operating budget will receive a \$100,000 payment. The \$100,000 payment was not included in the 2011-12 Adopted Budget; therefore, it will be accounted for as over-realized revenue.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Option to extend the lease for Parcel 8T commenced on December 8, 2009 and had an initial term of twelve months with the possibility of extensions by the Director of Beaches and Harbors ("Director") for up to an additional year for the purpose of Lessee's receipt of the regulatory approvals for the renovation. The Director granted one 6-month extension during which time Lessee received all of the remaining required regulatory approvals for the entitlements. Under the terms of the Option, the Director was able to extend the Option to provide additional time only to obtain regulatory entitlements, not for financing. The attached Renewal of Option will grant the renewal and extension described above for pursuit by Lessee of financing or a buyer for the leasehold capable of financing the project. The extension will be for 18 months to December 8, 2012.

At its meeting of October 12, 2011, the Small Craft Harbor Commission will have considered the recommendations to approve the new lessee, and its action will have been communicated to your Board prior to your Board's consideration of the matter.

County Counsel has approved the Renewal of Option as to form.

ENVIRONMENTAL DOCUMENTATION

On December 8, 2009, your Board considered and adopted the Mitigated Negative Declaration and the Mitigation Monitoring Program for the proposed renovation project in compliance with the California Environmental Quality Act. The recommended actions do not raise any new or substantive environmental impacts.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

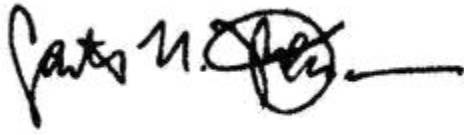
There is no impact on other current services or projects.

CONCLUSION

Authorize the Executive Officer/Clerk of the Board to send one copy of this Board Letter, as approved, and two copies of the executed Renewal of Option to the Department of Beaches and Harbors.

The Honorable Board of Supervisors
10/18/2011
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Santos H. Kreimann", followed by a horizontal line.

SANTOS H. KREIMANN
Director

SHK:GJ:dlg

Enclosures

c: Chief Executive Officer
Acting County Counsel
Executive Officer, Board of Supervisors

**RENEWAL OF OPTION TO AMEND LEASE AGREEMENT
(Parcel 8T)**

THIS RENEWAL OF OPTION TO AMEND LEASE AGREEMENT ("**Renewal Agreement**") is made as of October 18, 2011 between COUNTY OF LOS ANGELES ("**County**"), and NF MARINA LP, a California limited partnership ("**Lessee**").

RECITALS

A. County and Vadim P. Kondratief, dba V.P.K. Investment & Development Company (the "**Original Lessee**"), entered into Lease No. 4985, dated October 4, 1961, as amended (the "**Existing Lease**"), regarding the lease from County of certain real property in the Marina del Rey Small Craft Harbor now commonly known as Parcel No. 8T, as more particularly described in the Existing Lease (the "**Premises**").

B. County and Lessee, as current successor-in-interest to the Original Lessee's interest under the Existing Lease, entered into that certain Option to Amend Lease Agreement dated as of December 8, 2009 (the "**Option Agreement**"), whereby County granted Lessee an option (referenced in the Option Agreement as the "**Option**") to amend and restate the Existing Lease in its entirety upon the terms and conditions more specifically set forth in the Option Agreement, including, without limitation, (i) an extension of the term of the Existing Lease through June 7, 2051, and (ii) the redevelopment of the Premises in accordance with the terms and provisions of the Option Agreement.

C. In accordance with the terms and provisions of Section 2 of the Option Agreement, the Outside Date for the exercise by Lessee of the Option was originally December 8, 2010, and was subsequently extended by Director to June 8, 2011.

D. Lessee has received all Entitlements for the construction of the Redevelopment Work, but not all of the other conditions precedent to the exercise of the Option were satisfied by June 8, 2011 and Lessee did not exercise the Option by June 8, 2011.

E. Lessee has requested County to renew the Option Agreement and to extend the Option Expiration Date under the Option Agreement to December 8, 2012, and County is willing to do so on and subject to the terms and provisions of this Renewal Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Lessee and County hereby agree as follows:

1. Capitalized Terms. All capitalized terms used in this Renewal Agreement but not otherwise defined herein shall have the same meanings given to such terms in the Option Agreement.

2. Renewal of Option. The Option set forth in the Option Agreement is hereby renewed on the same terms and conditions as set forth in the Option Agreement, which is incorporated into this Renewal Agreement as though fully set forth herein, except that the terms and provisions of the Option Agreement as incorporated herein are modified in accordance with the remaining terms and provisions of this Renewal Agreement. County and Lessee hereby acknowledge and agree that the Option remains in full force and effect and that the Option has been reinstated by this Renewal Agreement retroactive to prior to the expiration of the Option Term that was in effect prior to this Renewal Agreement.

3. Extension of Option Expiration Date. Section 2 of the Option Agreement is hereby amended in its entirety to read in full as follows:

“2. Option Term. The term of the Option (the “**Option Term**”) shall commence on the date of this Agreement and expire on December 8, 2012 (the “**Option Expiration Date**”).”

4. Option Extension Fee. Concurrently herewith, Lessee has paid to County the sum of One Hundred Thousand Dollars (\$100,000.00) (the “**Option Extension Fee**”) in consideration for County’s execution and delivery of this Renewal Agreement and County’s renewal of the Option and extension of the Option Expiration Date as set forth above. The Option Extension Fee shall be added to and considered as a part of the Option Fee referenced in Section 4 of the Option Agreement, such that the total Option Fee shall be Two Hundred Thousand Dollars (\$200,000.00). The entire Two Hundred Thousand Dollar (\$200,000.00) Option Fee (including the Option Extension Fee) shall be non-refundable except in the case of a termination of the Option Agreement due to a County Default under the Option Agreement. All references in the Option Agreement and the Restated Lease to the Option Fee (including, without limitation, the reference to the Option Fee in Subsection 4.8.1.1 of the Restated Lease) shall hereafter mean and refer to the original One Hundred Thousand Dollar (\$100,000) Option Fee (which County hereby acknowledges has been paid) plus the additional One Hundred Thousand Dollar (\$100,000.00) Option Extension Fee.

5. No Further Extensions Pursuant to Section 6 of Option Agreement. As further consideration for the extension of the Option Expiration Date set forth in this Renewal Agreement, County and Lessee agree that there shall be no further right to extend the Outside Date or the Option Expiration Date pursuant to Section 6 of the Option Agreement. Section 6 of the Option Agreement is hereby terminated.

6. Changes of Ownership and Financing Events During the Option Term. As additional consideration for the extension of the Option Expiration Date set forth in this Renewal Agreement, Lessee agrees that terms and provisions

similar to those set forth in Sections 4.6 through 4.8 of the Restated Lease (as modified and set forth in Sections 6.1 through 6.4 below) pertaining to Changes of Ownership and Financing Events (as such terms are defined in the Restated Lease) shall be applicable to the Existing Lease during the remaining Option Term. Upon the expiration of the Option Term without exercise of the Option, this Section 6 shall terminate. If the Option is exercised, then commencing after the Effective Date of the Restated Lease, this Section 6 shall terminate and the terms and provisions of the Restated Lease shall control with respect to any Changes of Ownership or Financing Events that occur after the Effective Date of the Restated Lease. If a Change in Ownership or Financing Event occurs concurrent with the execution and delivery of the Restated Lease, then the terms and provisions of this Section 6 shall control with respect to such Change of Ownership or Financing Event and for purposes of the application of this Section 6, such Change of Ownership or Financing Event shall be considered to have occurred under the Existing Lease (as opposed to under the Restated Lease). Any capitalized terms set forth in Sections 6.1 through 6.4 below that are not defined in this Renewal Agreement shall have the same meanings given to such terms in the Restated Lease.

6.1 Changes of Ownership and Financing Events. Except as otherwise provided in this Section 6.1, each time during the period during which this Section 6 is in effect Lessee proposes either (a) a Change of Ownership (that is not an Excluded Transfer) or (b) a Financing Event, County shall be paid (1) an Administrative Charge equal to the Actual Cost incurred by County in connection with its review and processing of said Change of Ownership or Financing Event ("**Administrative Charge**"), and (2) a Net Proceeds Share, in the event such Change of Ownership or Financing Event is consummated. "**Net Proceeds Share**" shall mean the applicable amount determined pursuant to Section 6.3 below. Changes of Ownership and Financing Events are further subject to County approval as and to the extent required under the Existing Lease.

6.1.1 Change of Ownership. "**Change of Ownership**" shall mean (a) any transfer by Lessee of a five percent (5%) or greater direct ownership interest in the Existing Lease, (b) the execution by Lessee of a Major Sublease or the transfer by the Major Sublessee under a Major Sublease of a five percent (5%) or greater direct ownership interest in such Major Sublease, (c) any transaction or series of related transactions not described in subsections 6.1.1(a) or (b) which constitute an Aggregate Transfer of fifty percent (50%) or more of the beneficial interests in Lessee or a Major Sublessee, or (d) a Change of Control (as defined below) of Lessee or a Major Sublessee. For the purposes of this Lease, "**Change of Control**" shall refer to a transaction whereby the transferee acquires a beneficial interest in Lessee or a Major Sublessee which brings its cumulative beneficial interest in Lessee or a Major Sublessee, as applicable, to greater than fifty percent (50%).

6.1.2 Excluded Transfers. Notwithstanding anything to the contrary contained in this Lease, Changes of Ownership resulting from the following

transfers (“**Excluded Transfers**”) shall not be deemed to create an obligation to pay County a Net Proceeds Share:

6.1.2.1 a transfer by any direct or indirect partner, shareholder or member of Lessee (or of a limited partnership, corporation or limited liability company that is a direct or indirect owner in Lessee’s ownership structure) as of the date of this Renewal Agreement, to any other direct or indirect partner, shareholder or member of Lessee (or of a limited partnership, corporation or limited liability company that is a direct or indirect owner in Lessee’s ownership structure) as of the date of this Renewal Agreement, including in each case to or from a trust for the benefit of the immediate family (as defined in Subsection 6.1.2.3 below) of any direct or indirect partner, shareholder or member of Lessee who is an individual;

6.1.2.2 a transfer to a spouse in connection with a property settlement agreement or decree of dissolution of marriage or legal separation, as long as such transfer does not result in a Change of Control of Lessee or a change in the managing member or general partner of Lessee;

6.1.2.3 a transfer of ownership interests in Lessee or in constituent entities of Lessee (i) to a member of the immediate family of the transferor (which shall be limited to the transferor’s spouse, children, parents, siblings and grandchildren), (ii) to a trust for the benefit of a member of the immediate family of the transferor, or (iii) from such a trust or any trust that is an owner in a constituent entity of Lessee as of the date of this Renewal Agreement, to the settlor or beneficiaries of such trust or to one or more other trusts created by or for the benefit of any of the foregoing persons, whether any such transfer described in this Subsection 6.1.2.3 is the result of gift, devise, intestate succession or operation of law;

6.1.2.4 a transfer of a beneficial interest resulting from public trading in the stock or securities of an entity, where such entity is a corporation or other entity whose stock (or securities) is (are) traded publicly on a national stock exchange or traded in the over-the-counter market and whose price is regularly quoted in recognized national quotation services;

6.1.2.5 a mere change in the form, method or status of ownership, as long as there is no change in the actual beneficial ownership of the Existing Lease, Lessee or a Major Sublease, and such transfer does not involve an intent to avoid Lessee’s obligations under this Section 6 with respect to a Change of Ownership;

6.1.2.6 any transfer resulting from a Condemnation by County;
or

6.1.2.7 a foreclosure of the “Deed of Trust” referenced in the Lender Consent attached to this Renewal Agreement or a voluntary

conveyance of Lessee's leasehold interest under the Existing Lease to the Encumbrance Holder (or its affiliate) of such Deed of Trust in lieu of such foreclosure.

6.1.3 Aggregate Transfer. "**Aggregate Transfer**" shall refer to the total percentage of the shares of stock, partnership interests, membership interests or any other equity interests (which constitute beneficial interests in Lessee or a Major Sublessee, as applicable) transferred or assigned in one transaction or a series of related transactions (other than those enumerated in Subsection 6.1.2) occurring since the later of (a) the date of this Renewal Agreement, (b) the execution by Lessee of a Major Sublease, or (c) the most recent Change of Ownership upon which an Administrative Charge was paid to County; provided, however, that there shall be no double counting of successive transfers of the same interest in the case of a transaction or series of related transactions involving successive transfers of the same interest. Isolated and unrelated transfers shall not be treated as a series of related transactions for purposes of the definition of Aggregate Transfer.

6.1.4 Beneficial Interest. As used in this Lease, "**beneficial interest**" shall refer to the ultimate direct or indirect ownership interests in Lessee (or a Major Sublessee, as applicable), regardless of the form of ownership and regardless of whether such interests are owned directly or through one or more layers of constituent partnerships, corporations, limited liability companies or trusts.

6.1.4.1 Interests Held By Entities. Except as otherwise provided herein, an interest in Lessee, the Existing Lease or a Major Sublease held or owned by a partnership, limited liability company, corporation or other entity shall be treated as owned by the partners, members, shareholders or other equity holders of such entity in proportion to their respective equity interests, determined by reference to the relative values of the interests of all partners, members, shareholders or other equity holders in such entity. Where more than one layer of entities exists between Lessee or a Major Sublessee, as applicable, and the ultimate owners, then the foregoing sentence shall be applied successively to each such entity in order to determine the ownership of the beneficial interests in Lessee, the Existing Lease or a Major Sublease, as appropriate, and any transfers thereof. Notwithstanding any contrary provision hereof, no limited partner, member or shareholder having a direct or indirect ownership interest in Lessee or a Major Sublease shall have any liability to County under this Lease.

6.1.4.2 Ownership of Multiple Assets. The proceeds of any event constituting or giving rise to a Change of Ownership shall be apportioned to the Existing Lease or a Major Sublease, whichever is applicable, and to any other assets transferred in the same transaction in proportion to the relative fair market values of the respective assets transferred. The Net Proceeds Share shall be calculated only by reference to

the amount of such proceeds apportioned to the Existing Lease, a Major Sublease or the beneficial interests therein, as applicable.

6.2 Calculation and Payment. A deposit of Fifteen Thousand Dollars (\$15,000) toward the Administrative Charge shall be due and payable upon Lessee's notification to County of the proposed Change of Ownership (other than an Excluded Transfer) or Financing Event and request for County's approval thereof. If the transaction is approved, the balance of the Administrative Charge, if any, and the Net Proceeds Share shall be due and payable concurrently with the consummation of the transaction constituting the Change of Ownership (other than an Excluded Transfer) or Financing Event giving rise to the obligation to pay such fee, regardless of whether or not money is transferred by the parties in connection with such consummation. If County disapproves the proposed transaction then, within thirty (30) days after notice of its disapproval, County shall deliver to Lessee a written notice setting forth the Administrative Charge, together with a refund of the amount, if any, of the deposit in excess of the Administrative Charge otherwise allowable under Section 6.1. In the event that the Administrative Charge exceeds the deposit, then Lessee shall pay County the balance of the Administrative Charge otherwise allowable under Section 6.1 within thirty (30) days after receipt of the notice from County setting forth the Administrative Charge and any supporting documentation reasonably requested by Lessee within five (5) business days after its receipt of such notice. Together with its request for County approval of the proposed transaction, Lessee, a Major Sublessee or the holder of a beneficial interest in the Existing Lease or a Major Sublease, as applicable, shall present to County its calculation of the Net Proceeds Share (if any) anticipated to be derived therefrom, which shall include the adjustment to Improvement Costs, if any, which may result from the payment of such Net Proceeds Share ("**Calculation Notice**"). Each Calculation Notice shall contain such detail as may be reasonably requested by County to verify the calculation of the Net Proceeds Share. Within thirty (30) days after the receipt of the Calculation Notice and all information or data reasonably necessary for County to verify the calculations within the Calculation Notice, County shall notify the party giving the Calculation Notice as to County's agreement or disagreement with the amount of the Net Proceeds Share set forth therein or the related adjustment of Improvement Costs, if any. If County disagrees with the amounts set forth in the Calculation Notice, County shall provide Lessee with the reason or reasons for such disagreement. Failing mutual agreement within thirty (30) days after the expiration of County's thirty (30) day review period, the dispute shall be resolved by arbitration in accordance with the terms and provisions set forth in Article 16 of the Restated Lease in the manner prescribed therein for the resolution of disputes concerning Fair Market Rental Value. In the event County approves a Change of Ownership or Financing Event but a dispute exists as to the Net Proceeds Share in respect thereof or the related adjustment, if any, in Improvement Costs, then the transaction may be consummated after County has disapproved Lessee's Calculation Notice; provided, however, that (i) Lessee shall remit to County as otherwise required hereunder the undisputed portion of the Net Proceeds Share and (ii) Lessee shall deposit the disputed portion of the Net Proceeds Share into an interest bearing escrow account at the closing of the transaction, which portion shall be distributed in accordance with the arbitration of the dispute pursuant to the terms and provisions set forth in Article

16 of the Restated Lease, in the manner prescribed therein for the resolution of disputes concerning Fair Market Rental Value.

6.2.1 Transfer of Less Than Entire Interest. Where a Change of Ownership has occurred by reason of the transfer of less than all of an owner's beneficial interest in Lessee or a Major Sublessee, the Net Proceeds Share shall be due and payable with respect to those portions of such beneficial interest that have been acquired by the transferee since the latest of (a) the date of this Renewal Agreement, or (b) the date of the most recent event creating Lessee's obligation to pay a Net Proceeds Share (including without limitation an approval by County of a transfer at a price which falls below the threshold for paying a Net Proceeds Share) with respect to the Existing Lease, a Major Sublease or a Change of Ownership that included a transfer of the beneficial interest that is the subject of the current transfer.

6.2.2 Purchase Money Notes. If the transferor of an interest accepts a note made by the transferee of such interest in payment of all or a portion of the acquisition cost (a "**Purchase Money Note**"), such note shall be valued at its face amount; provided that if the interest rate on such Purchase Money Note is in excess of a market rate, then the value of such note shall be increased to reflect such above-market rate. Any disputes between County and Lessee as to whether the interest rate on a Purchase Money Note is in excess of a market rate or with respect to the valuation of a Purchase Money Note with an above-market rate of interest, shall be settled by arbitration pursuant to the terms and provisions set forth in Article 16 of the Restated Lease.

6.2.3 Obligation to Pay Net Proceeds Share and Administrative Charge. With respect to a Change of Ownership giving rise to the Administrative Charge and Net Proceeds Share, the obligation to pay the Administrative Charge and Net Proceeds Share shall be the obligation of Lessee, and in the case in which the identity of the Lessee changes with the transfer, shall be the joint and several obligation of both the Lessee entity prior to the transfer and the Lessee entity after the transfer. In the event that the Administrative Charge or Net Proceeds Share is not paid when due with respect to the beneficial interest in the Existing Lease, then such failure shall constitute a default by Lessee under the Existing Lease and County shall have the remedies applicable under the Existing Lease for a default by Lessee under the Existing Lease.

6.3 Net Proceeds Share. In the event of a Change of Ownership, the "**Net Proceeds Share**" shall be the amount by which the greater of the following exceeds the Administrative Charge paid by Lessee to County in connection with such Change of Ownership: (a) the lesser of (i) the Net Transfer Proceeds from such Change of Ownership, or (ii) two percent (2%) of the Gross Transfer Proceeds from such Change of Ownership; or (b) eight percent (8%) of the Net Transfer Proceeds from such Change of Ownership.

With respect to a Financing Event, the "Net Proceeds Share" shall be the amount (if any) by which (I) twenty percent (20%) of the Net Refinancing Proceeds from such Financing Event exceeds (II) the Administrative Charge paid by Lessee to County in connection with the transaction.

"Gross Transfer Proceeds" shall mean an amount equal to the gross sale or transfer proceeds and other consideration given for the interests transferred (but in the case of a transfer to a party affiliated with or otherwise related to the transferor which constitutes a Change of Ownership that is not an Excluded Transfer, such consideration shall in no event be deemed to be less than the fair value of the interests transferred).

Notwithstanding any contrary provision of this Section 6.3, in the calculation of Net Transfer Proceeds and Net Refinancing Proceeds derived from a Change of Ownership or Financing Event, as applicable, pursuant to the remaining provisions of Section 5.3 below, there shall be no duplication of any amounts to be subtracted from Gross Transfer Proceeds or the gross principal amount of any Financing Event (as applicable), even if a particular amount qualifies for subtraction under more than one category.

6.3.1 Transaction by Existing Lessee. In the case of a transfer by or with respect to the existing Lessee that executed this Renewal Agreement (as opposed to a transfer by a successor or assignee of Lessee, which is addressed in Subsection 6.3.2 below) constituting a Change of Ownership for which a Net Proceeds Share is payable, **"Net Transfer Proceeds"** shall mean the Gross Transfer Proceeds from the transfer, less the following costs with respect to Lessee (but not its successors or assignees):

6.3.1.1 The sum of (a) Thirty-Four Million Four Hundred Six Thousand Five Hundred Ninety-Four Dollars (\$34,406,594.00), plus (b) the amount of the Option Fee paid by Lessee under the Option Agreement and the Option Extension Fee paid by Lessee under this Renewal Agreement, plus (c) actual out-of-pocket costs incurred by Lessee for its third party consultants and attorneys in connection with the negotiation and consummation of the Option Agreement and the Restated Lease, plus (d) the Actual Costs reimbursed by Lessee to County in connection with the negotiation and consummation of the Option Agreement (the sum of the amounts in (a), (b), (c) and (d) are referred to as the **"Base Value"**), plus (e) the final actual out-of-pocket design, permitting, entitlement and construction costs paid by Lessee in connection with physical capital Improvements or Alterations to the Premises constructed by Lessee after the date of this Renewal Agreement and prior to the date of the transfer, in compliance with the Existing Lease, which costs have been submitted to County within ninety (90) days after the completion of such Improvements (or in the case of phased construction, within ninety (90) days after the completion of the applicable phase of such Improvements), together with a written certification from Lessee and Lessee's construction lender that such costs are accurate, and which costs shall have been approved in writing by Director (the amounts described in this clause (e)

are referred to as "**Improvement Costs**"). Without limitation of the immediately preceding sentence, Improvement Costs shall include all actual out-of-pocket hard and soft construction costs paid to unaffiliated third parties (except that Lessee shall be entitled to include, to the extent actually incurred, construction management and/or development fees paid to an affiliate as long as the total amount of all construction management, development and similar fees paid to unaffiliated and affiliated parties does not exceed an aggregate of four percent (4%) of the hard construction costs), and actual construction period interest on Lessee's construction loan from an unaffiliated third party lender.

6.3.1.2 Commissions, title and escrow costs, legal fees and expenses, and other bona fide closing costs actually paid to third parties and documented to the satisfaction of Director, which costs were directly attributable to the consummation of the particular transaction giving rise to the obligation to pay County a Net Proceeds Share (collectively, "**Documented Transaction Costs**").

6.3.1.3 That portion of the principal amount of any Financing Event after the date of this Renewal Agreement that constituted Net Refinancing Proceeds on which Lessee paid County a Net Proceeds Share.

6.3.2 Transfer by Lessee's Successor. In the case of a transfer by or with respect to a successor or assignee of the existing Lessee that executed this Renewal Agreement, "Net Transfer Proceeds" shall mean the Gross Transfer Proceeds received by that successor or assignee, minus the following costs with respect to such successor Lessee:

6.3.2.1 The greatest of (a) the sum of the Base Value, plus Improvement Costs incurred subsequent to the date of this Renewal Agreement but prior to the acquisition of the leasehold interest by such successor, (b) the purchase price such successor paid to Lessee or such successor's seller for the interest acquired or (c) the original principal amount of any Financing Event or Financing Events (on a non-duplicative basis) after such successor Lessee's acquisition of the leasehold, and with respect to which County was paid a Net Proceeds Share, plus the principal amount of any financing existing as of the date on which such seller acquired the leasehold or subsequently obtained by Lessee, if such financing has not been refinanced, but without duplication;

6.3.2.2 Improvement Costs actually paid by such successor Lessee after such successor Lessee's acquisition of its leasehold interest in the Premises (but not duplicative of the principal amount of any Financing Event described in clause 6.3.2.1(c) above, the proceeds of which were used to fund such Improvement Costs); provided that such costs have been submitted to County, with an appropriate lender and Lessee certification, as provided in Subsection 6.3.1.1; and

6.3.2.3 Documented Transaction Costs with respect to the transfer of the interest by the successor.

6.3.3 Transfers of Major Sublessee's Interest. With respect to any Change of Ownership described in Subsection 6.1.1(b), Subsections 6.3.1 and 6.3.2 shall apply, except that any rents or other amounts received by Lessee from the Major Sublessee a percentage of which is passed through to County under any provision of the Existing Lease (other than payment of Net Proceeds Share) shall be disregarded in the computation of Net Transfer Proceeds.

6.3.4 Other Transfers. With respect to any Change of Ownership that is not an Excluded Transfer and is not described in Subsections 6.3.1 through 6.3.3 (e.g., a transfer of an interest in an entity holding a direct or indirect ownership interest in this Lease or in a Major Sublease), Subsections 6.3.1 and 6.3.2 shall apply to such Change of Ownership, except that in lieu of deducting the Base Value and Improvement Costs in determining Net Transfer Proceeds, the cost to the transferor of the interest being transferred or which was transferred in the past but constitutes a portion of an Aggregate Transfer (which cost shall in no event be deemed to be less than a pro rata share of the Base Value and Improvement Costs (or following a transfer by the existing Lessee that executed this Renewal Agreement, such cost shall in no event be deemed to be less than a prorata share of the sum of Subsections 6.3.2.1 plus 6.3.2.2 as of the respective date of the transfer of each interest in the aggregation pool)) shall be deducted. Furthermore, in the event that any such Change of Ownership produces a Net Proceeds Share, the then existing Improvement Costs shall be increased by an appropriate amount to reflect the basis on which the Net Proceeds Share was calculated, and the basis of the interest that was transferred and for which a Net Proceeds Share was paid shall also be increased for subsequent transfers of the same interest, as if realized by Lessee upon a transfer of a comparable interest in the Existing Lease or in a Major Sublease, as applicable.

6.3.5 Net Refinancing Proceeds. "Net Refinancing Proceeds" shall mean the gross principal amount of any Financing Event after the date of this Renewal Agreement, plus in the case of secondary financing the original principal balance of any existing financing that is not repaid as a part of such secondary financing, minus (a) the greatest of (i) the Base Value, (ii) the original principal amount of any subsequent refinancing by Lessee in connection with which County was paid a share of Net Refinancing Proceeds (plus if the financing described in this clause (ii) was secondary financing, the original principal balance of any then existing financing that was not repaid as a part of such secondary financing), or (iii) in the case of a successor Lessee the purchase price such successor paid to Lessee or such successor's seller for the interest acquired, (b) any portion of the proceeds of the Financing Event which shall be used for Improvement Costs incurred after the date of this Renewal Agreement, (c) other Improvement Costs incurred by Lessee after the date of this Renewal Agreement and not paid for or repaid with the proceeds of any Financing Event, and (d) Documented Transaction Costs with respect to such Financing Event.

6.3.6 Transfers to which Sections 6.1 through 6.3 Apply. The provisions of Sections 6.1 through 6.3 hereof shall apply to all transfers of beneficial interests in the Existing Lease or a Major Sublease which constitute a Change of Ownership, unless such transfers are otherwise excluded pursuant to this Lease. Furthermore, the provisions of Sections 6.1 through 6.3 hereof, and the principles set forth therein, shall apply to any transfer or series of transfers primarily structured for the purpose of avoiding the obligation to pay Net Proceeds Share set forth in Sections 6.1 through 6.3 of this Renewal Agreement and which, viewed together, would otherwise constitute a Change of Ownership.

6.3.7 Payment. Net Proceeds Share shall be due and payable concurrently with the transfer giving rise to the obligation to pay such share and shall be the joint and several obligation of the transferee and transferor. Net Proceeds Share not paid when due shall be subject to a late fee of six percent (6%) of the amount due, together with interest on such Net Proceeds Share at the Applicable Rate from the date due until paid; provided, however, that in the case of a dispute as to the correct amount of the Net Proceeds Share there shall be no late fee payable as long as Lessee timely pays to County the undisputed portion of the Net Proceeds Share and deposits the disputed portion thereof in an interest bearing escrow account at the closing of the transaction (or delivers to County a letter of credit or other security reasonably acceptable to County in the amount of such disputed portion) to secure payment thereof. In the event that the proceeds of the transaction giving rise to the obligation to pay Net Proceeds Share are comprised, in whole or in part, of assets other than cash, then the cash payment of the Net Proceeds Share shall reflect the fair market value of such non-cash assets as of the date of the Change of Ownership, which shall be set forth in the Calculation Notice. Notwithstanding the foregoing, in the case of a Change of Ownership described in Subsection 6.1.1(b), the Net Proceeds Share shall be payable to County as and when the Net Transfer Proceeds are received, with the Net Proceeds Share being equitably apportioned to the payments derived by Lessee from said Change of Ownership (other than any payments passed through to County under this Lease).

6.3.8 Shareholder, Partner, Member, Trustee and Beneficiary List. As part of the submission for approval of a Change of Ownership or Financing Event, and upon the request of County (which requests shall be no more frequent than once per year), Lessee shall provide County with an updated schedule listing the names and mailing addresses of (i) all shareholders, partners, members and other holders of equity or beneficial interests in Lessee, the Existing Lease or the Major Sublessee under any Major Sublease, and (ii) all shareholders, partners, members and other holders of equity or beneficial interests in any of the constituent shareholders, partners, members or other holders of equity or beneficial interests in Lessee or any Major Sublessee under any Major Sublease, if such interest exceeds a five percent (5%) or greater beneficial interest in Lessee or the Major Sublessee under a Major Sublease. In the event that such shareholder, partner, member or other interest holder is a trust, Lessee shall include in such schedule the name and mailing address of each trustee of said trust, together with the

names and mailing addresses of each beneficiary of said trust with greater than a five percent (5%) actuarial interest in distributions from, or the corpus of, said trust; provided, however, that to the extent that Lessee is prevented by Applicable Laws from obtaining such information regarding the beneficiaries of said trust(s), Lessee shall have complied with this provision if Lessee uses its commercially reasonable efforts to obtain such information voluntarily and provides County with the opportunity to review any such information so obtained. Lessee agrees to use its best efforts to provide County with any additional information reasonably requested by County in order to determine the identities of the holders of five percent (5%) or greater beneficial interests in Lessee or a Major Sublessee.

6.4 Effect Upon Sections 4.6 through 4.8 of the Restated Lease of Changes of Ownership That Occur During the Option Term.

6.4.1 If a Change of Ownership occurs during the Option Term upon which a Net Proceeds Share is payable under this Section 6 and the Gross Transfer Proceeds from such Change of Ownership exceed Thirty-Four Million Four Hundred Six Thousand Five Hundred Ninety-Four Dollars (\$34,406,594.00), then for purposes of the Restated Lease, the amount set forth in clause (a) of Section 4.8.1.1 of the Restated Lease shall be modified to equal the Gross Transfer Proceeds from such Change of Ownership that occurred during the Option Term.

6.4.2 No Changes of Ownership that occur during the Option Term shall constitute a Change of Ownership under the Restated Lease for purposes of the second sentence of the first paragraph of Section 4.8 of the Restated Lease.

7. County Costs. Regardless of whether Lessee exercises the Option, Lessee shall promptly reimburse County for the Actual Costs (as defined in the Restated Lease) incurred by County in connection with the review, negotiation, preparation and documentation of this Renewal Agreement and the matters addressed herein.

8. Entire Agreement. This Renewal Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any and all previous negotiations, communications or understandings between the parties, whether oral or written, with respect to the subject matter set forth herein.

9. No Other Modifications. County and Lessee acknowledge and agree that the Option Agreement is in full force and effect, unmodified except as set forth in this Renewal Agreement.

10. Counterparts. This Renewal Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall collectively constitute one fully-executed document.

11. Representation Regarding Existing Encumbrances. Lessee represents and warrants to County that as of the date of this Renewal Agreement there are no deeds of

trust, mortgages or other security interests that encumber Lessee's interest in the Existing Lease or the Premises other than the "Deed of Trust" referenced in the Lender Consent attached to this Renewal Agreement. The renewal of the Option Agreement and the extension of the Option Term set forth herein are contingent upon (a) the accuracy of the foregoing representation and warranty, and (b) the execution by the beneficiary of such Deed of Trust and delivery to County of such executed Lender Consent concurrent with the execution and delivery of this Renewal Agreement by Lessee and County.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, County and Lessee have entered into this Renewal Agreement as of the date first set forth above.

COUNTY OF LOS ANGELES
By: Mike Antonovich
Mayor, County of Los Angeles

NF MARINA LP, a California limited partnership

By: NFM LLC, a California limited liability company, its General Partner

By: Jack Nagel
Jack Nagel, Managing Member

ATTEST:

SACHI A. HAMAI,
Executive Officer of the Board of Supervisors

By: Lachelle Smithman
Deputy

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN,
County Counsel

By: Andrea Sheridan Ordin
Deputy



I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By: Lachelle Smithman
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: [Signature]

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

23

OCT 18 2011

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

LENDER CONSENT


The undersigned represents that it is the current beneficiary under that certain Deed of Trust, Assignment of Leases and Rents and Security Agreement with Fixture Filing dated as of October 6, 2005, and recorded in the Official Records of Los Angeles County, California on October 12, 2005 as Instrument No. 05-2456528 (the "Deed of Trust"). As such beneficiary the undersigned hereby consents to the foregoing Renewal of Option to Amend Lease Agreement and agrees that the Deed of Trust is subject and subordinate to such Renewal of Option to Amend Lease Agreement.

PB CAPITAL CORPORATION, a Delaware corporation, as Administrative Agent

By: 

Name: Larney J. Bisbano

Title: Senior Director

By: 

Name: Carol Chen

Title: Managing Director